

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANTHONY RIGGINS,

Case No. C-1-01-503

Plaintiff,

Vs.

JUDGE BARRETT

FORREST HUNT, et al.,

Defendants.

**JOINT FINAL PRETRIAL
ORDER**

FINAL PRETRIAL ORDER

This action came before the Court at a Final Pretrial Conference held on the 17th day of July 2006, pursuant to Rule 16 of the Federal Rules of Civil Procedure.

I. APPEARANCES

For Plaintiff Anthony Riggins:
Jennifer L. Branch

For Defendants Forest Hunt, Anthony Gannon and Jerry Wells:
R. Tracy Hoover
Marie M. Hoover

II. NATURE OF ACTION AND JURISDICTION

- A. This is an action for damages brought under 42 U.S.C. §1983 for alleged violations of Plaintiff's Eighth Amendment rights while Plaintiff was confined in the Southern Ohio Correctional Facility ("SOCF"). Plaintiff seeks compensatory and punitive damages and attorney fees.
- B. The jurisdiction of the Court is not disputed.

III. TRIAL INFORMATION

- A. The estimated length of trial is five days
- B. Trial to a jury has been set for August 21, 2006

IV. **AGREED STATEMENT AND LISTS**

A. General Nature of the Claims of the Parties

(1) PLAINTIFF CLAIMS:

Plaintiff claims that defendants Forest Hunt, Anthony Gannon, and Jerry Wells used excessive force on Mr. Riggins in violation of his Eighth Amendment right to be free from cruel and unusual punishment. Mr. Riggins seeks compensatory and punitive damages for his injuries and attorneys fees.

(2) DEFENDANT CLAIMS:

- a) The Defendants deny all allegations of the plaintiff; the defendants deny the facts of the subject lawsuit as plaintiff sets them forth in his complaint.
- b) The Defendants claim that plaintiff's claim was not brought within the time applicable by law.

B. Uncontroverted Facts

The following facts are established by admissions in the pleadings or stipulations of counsel.

- (1) The parties stipulate to the authenticity of the joint exhibits listed herein.
- (2) The parties will attempt to reach stipulations before trial.

C. Issues of Fact and Law

(1) CONTESTED ISSUES OF FACT:

The contested issues of fact remaining for decision are:

- (a) Whether Defendant Hunt used excessive force.
- (b) Whether Defendant Gannon used excessive force.
- (c) Whether Defendant Wells used excessive force.
- (d) The amount of compensatory damages.
- (e) The amount of punitive damages plaintiff shall be awarded.

(2) CONTESTED ISSUES OF LAW:

The contested issues of law in addition to those implicit in the foregoing issues of fact are:

- (a) None

D. Witnesses

- (1) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call:
 - a) Anthony Riggins
 - b) Forest Hunt
 - c) Anthony Gannon
 - d) Jerry Wells
 - e) Carole Chapman
 - f) Carl Distel

- g) Harold Carter
- h) Jonathan W. Hall
- i) Gregory Johnson
- j) Any treating medical personnel since the assault
- k) Mona Parks: Records custodian for medical records
- l) Records custodian for ODRC records

(2) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call, or will have available at trial:

- a) Carl Distel
- b) Daryle Harris
- c) Carol Chapman
- d) Anthony Gannon
- e) Jerry Wells
- f) Forest Hunt
- g) Harold E. Carter
- h) Medical records custodian
- i) Witness to authenticate criminal records
- j) Anthony Riggins (as if on cross)
- k) Any surrebuttal witness, if necessary, which are unable to be determined at this time

(3) The parties reserve the right to call any of the opposing parties as witnesses as part of their case.

(4) There is reserved to each of the parties the right to call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

E. Expert Witnesses

Plaintiff: NONE

Defendant:
NONE

F. Exhibits

Appendix B: Joint Exhibits

Appendix C: Plaintiff's Exhibits

Appendix D: Defendant's Exhibits

G. Depositions

Testimony of the following witnesses will be offered by deposition/video tapes:

Daryle Harris, if he cannot be subpoenaed.

H. Discovery

None Pending.

I. Pending Motions

Any Motions in Limine that shall be filed on or before August 11, 2006.

J. Miscellaneous Orders

None.

V. MODIFICATION

This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel, or on motion of this Court.

VI. SETTLEMENT EFFORTS

This case has been tried once before, so the settlement efforts have been exhausted.

IT IS SO ORDERED.

/s/ Michael R. Barrett

**UNITED STATES JUDGE
MICHAEL R. BARRETT**

/s/ R. Tracy Hoover (per tel. auth.)

R. Tracy Hoover #0039610
Trial Attorney for Defendants

/s/ Jennifer L. Branch (per tel. auth.)

Jennifer L. Branch #0032053
Trial Attorney for Plaintiff

APPENDIX B

JOINT EXHIBITS OF PLAINTIFF AND DEFENDANTS

Designation(w hite labels)	Description	Identified/Admitted
JX 1	Photographs of Anthony Riggins' cell J-73	
JX 2	Photographs of SOCF cell block J	
JX 3	Video tape of Anthony Riggins' cell J-73	
JX 4	Video tape of SOCF cell block J	

APPENDIX C PLAINTIFF'S EXHIBITS

Designation(yellow labels)	Description	Identified/Admitted	
PX 1001	Blueprint of SOCF J cellblock		
PX 1002	Diagram of SOCF J cellblock		
PX 1003	Diagram of SOCF Cell # J-73		
PX 1004	Use of Force Report dated May 12, 2000		
PX 1005	Use of Force Report dated October 11, 2000		
PX 1006	Ohio Highway Patrol Report		
PX 1007	Defendant Hunt's incident reports		
PX 1008	Defendant Well's incident reports		
PX 1009	Defendant Gannon's incident reports		
PX 1010	Carl Distel's incident reports		
PX 1011	Carole Chapman's incident reports		
PX 1012	Job description ODRC Corrections Officer		
PX 1013	Post Orders		
PX 1014	PR-24		
PX 1015	PR-24 Manual		
PX 1016	ODRC Report Regarding Representation for Forest Hunt		
PX 1017	ODRC Report Regarding Representation for Anthony Gannon		
PX 1018	ODRC Report Regarding Representation for Jerry Wells		
PX 1019	ODRC policies and procedures on cell extractions		
PX 1020	ODRC policies and procedures on use of force		
PX 1021	Administrative Rules 5120-0-01 through 03		
PX 1022	Grievance and Discipline records for Forest Hunt		
PX 1023	Grievance and Discipline records for Anthony Gannon		
PX 1024	Grievance and Discipline records for Jerry Wells		
PX 1025	Plaintiff's medical records which show his physical and psychological injuries		
PX 1026	Photograph of Plaintiff's injuries		
PX 1027	Grievances filed by Plaintiff		
PX 1028	Log books SODF May 12, 2000		
PX 1029	RIB Record for May 12, 2000		
PX 1030	Personnel file for Forest Hunt		
PX 1031	Personnel file for Anthony Gannon		
PX 1031	Personnel file for Jerry Wells		
PX 1032	Second shift assignment record May 12, 2000		
PX 1033	Food menu for May 11-13, 2000		
PX 1034			
PX 1035			

DEFENDANT'S EXHIBITS

DESIGNATION	DESCRIPTION	MARKED	OFFERED	ADMITTED
DX A	Well's Certificates			
DX B	Well's Application			

DX C	Well's Notification of Employment			
DX D	Well's Performance Reviews			
DX E	Position Description			
DX F	Photos of Well's Injuries			
DX G	Gannon's Certificates			
DX H	Gannon's Application			
DX I	Gannon's Notice of Employment			
DX J	Gannon's Performance Review			
DX K	Hunt's Certificates			
DX L	Hunt's Letters of Commendation			
DX M	Hunt's Application			
DX N	Hunt's Notification of Employment			
DX O	Hunt's Performance Reviews			
DX P	Photo's of Hunt's Injuries			
DX Q	Post Orders			
DX R	Notices of Intent to Sue			
DX S	Attempts to Establish Relationships			
DX T	Assaultive Behavior			
DX U	Spitting & Bodily Fluids			
DX V	Food & Food Trays			
DX W	Interoffice Memo			
DX XYZ	Note Showing Limp/Shorter Leg			
DX AA	Photo of Riggins' Cell			
DX BB	Photo of Riggins' Shoulder			
DX CC	Photo of Position of Officer			
DX DD	Photo of Hands Through Bars			
DX EE	Photo of View of Bars			
DX FF	Photo of Front View of Bars			
DX GG	Photo of View of Range			
DX HH	Photo of View of Range with Arms			
DX II	Photo of Hall			
DX JJ	Photo of View of Length of Range			
DX KK	Photo of Monitor Room			
DX LL	Photo of Wall in Holding Cell			

DX MM	Photo of Wall in Holding Cell			
DX NN	Photo of Holding Cell			
DX OO	Photo of Holding Cell			
DX PP	Indictment and Guilty Verdict in Assault Case			
DX QQ	Records on Riggins' pre-existing broken finger			
DX RR	Recent Incident Reports Involving Riggins			